



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,978	11/16/2001	Fred J. Callahan	CLLP:101_US_	7658

7590

04/25/2003

Robert P. Simpson, Esq.
Simpson, Simpson & Snyder, PLLC
5555 Main Street
Williamsville, NY 14221-5406

EXAMINER

BUTLER, DOUGLAS C

ART UNIT PAPER NUMBER

3683

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



07/992978 2
UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
--------------------	-------------	-----------------------	---------------------

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

6
DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 2/24/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three (3) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
- Of the above, claim(s) 4-5, 8-14 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 6-7, 15-21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claims 1-21 remain are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, ~~Report(s)~~ _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Art Unit: 3683

DETAILED ACTION

1. An action on the merits of claims 1-3, 6-7 and 15-21 considered readable on the invention of Group I and on the elected species is included in this office action . Claims 4-5 and 8-14 are withdrawn from consideration under 37 C.F.R. § 1.142(b) as being drawn to a nonelected invention and species. Election was made without traverse in that no arguments have been set forth.

2. The deficiency noted by the examiner as set forth on page 5, paragraph 9 of the prior office action of January 22, 2003 should be corrected in due course.

3. All submitted prior art has been considered.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3683

6. Claims 1-3, 6, 15-16, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Urban et al(4588050).

Figures 1-2 of Urban et al(4588050) disclose a mechanical attachment of a brake pad to its backing plate by way of rigid structure 34(a plurality of which are shown in Figure 1B thereof) wherein the rigid structure forms a closed loop with the backing plate.

7. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Urban et al(4588050).

The principal reference to Urban et al(4588050) discloses the invention substantially as claimed. However, the principal reference to Urban et al(4588050) does not disclose the feature of claim 7 re the material of which the attachment member is made. See column 2, lines 44-60 of Urban et al(4588050) which states that the retainer may be made of any suitable material .

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Urban et al(4588050) to make the rigid structure of the attachment device of any material such as a friction material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

8. Claims 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urban et al(4588050) in view of Schulz(5601174).

83

Art Unit: 3683

The principal reference to Urban et al(4588050) discloses the invention substantially as claimed. See column 3, lines 34-41 of Urban et al(4588050) which discloses drum and disk brakes and other types of coupling arrangements. The principal reference to Urban et al(4588050) does not expressly disclose the feature of claim 17 and 21 directed to the article or apparatus being a clutch.

03 The secondary reference to Schulz(5601174) teaches a clutch plate and lining with attachment means.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Urban et al(4588050) to use the attachment arrangements for attaching a clutch and its lining as taught by Schulz(5601174) since the attachment applies equally well with clutches and brakes since they are in the same ^{field} ~~filed~~ of technology insofar as attachment applies.

9. **COMMENTS INTENDED TO ADVANCE THE PROSECUTION:**

The examiner does not believe that patentable subject matter is present with respect to the elected invention. Figure 1C of Urban et al(4588050) is substantially the same as the attachment device of instant Figure 3.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Butler whose telephone number is (703) 308-2575. The examiner is normally in the USPTO Monday-Friday from 5:30 a.m. to 2:00p.m. Although the examiner may not always be present in his office to immediately answer the phone when called, the examiner

Application/Control Number: 09/992,978


Page 5

Art Unit: 3683

will make every effort to return the call as soon as possible. If the examiner does not answer his phone, the examiner suggests that a brief message be recorded on the examiner's voice mail machine when necessary and appropriate. The examiner normally checks recorded phone calls at least once a day unless on leave.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


DOUGLAS C. BUTLER
PRIMARY EXAMINER
4/22/03
AU3683